

1 MICHAEL J. McCUE (Nevada Bar No. 6055)

mmccue@lrlaw.com

2 JOHN L. KRIEGER (Nevada Bar No. 6023)

jkrieger@lrlaw.com

3 LEWIS AND ROCA LLP

3993 Howard Hughes Parkway, Suite 600

4 Las Vegas, NV 89169

Tel; (702) 949-8200

5 Fax: (702) 949-8398

6 Attorneys for

7 VISA INTERNATIONAL SERVICE ASSOCIATION

8 **UNITED STATES DISTRICT COURT**

9 **DISTRICT OF NEVADA**

10 VISA INTERNATIONAL SERVICE
11 ASSOCIATION, a Delaware corporation,

12
13 Plaintiff,

COMPLAINT

14 v.

15 VISACREDIT.COM,
16 VISACREDITCARD.COM,
17 VISADEBIT.COM,
18 VISAREWARDS.COM,
19 VISAMOBILE.COM,
20 VISAPAY.COM, and
21 VISSA.COM,

22 Defendants.

23 For its complaint, Plaintiff Visa International Service Association ("Visa") alleges
24 as follows:

25 **NATURE OF THE CASE**

26 This is an *in rem* action by Visa under the Anticybersquatting Consumer
27 Protection Act, 15 U.S.C. § 1125(d), against Internet domain names <visacredit.com>,
28 <visacreditcard.com>, <visadebit.com>, <visarewards.com>, <visamobile.com>,
<visapay.com>, and <vissa.com> ("Defendant Domain Names"), each of which contain

1 the VISA trademark. Visa International seeks injunctive relief and transfer of the
2 Defendant Domain Names to Visa.

3 JURISDICTION AND VENUE

4 1. This Court has subject matter jurisdiction over this case pursuant to 28
5 U.S.C. §§ 1331 and 1338(a).

6 2. This Court has *in rem* jurisdiction over the Defendant Domain Names
7 pursuant to 15 U.S.C. § 1125(d) and 28 U.S.C. § 1655 and interpretive case law. Upon
8 information and belief, the Court cannot exercise personal jurisdiction over the registrants
9 of the Defendant Domain Names, because the registrants have either concealed their
10 identity by registering the domain names through private registrations, in the case of
11 <visadebit.com>, the registrant is located outside of the United States, or in the case of
12 <visamobile.com>, has failed to provide complete and accurate registration information.
13 The registrants' websites are not interactive and, therefore, do not subject the registrants
14 to personal jurisdiction in the State of Nevada. As a separate and independent basis for *in*
15 *rem* jurisdiction, upon service of this Complaint upon the registrant of the Defendant
16 Domain Names, the registrars will deposit the domain names into the registry of the
17 Court. In addition, the situs of the Defendant Domain Names are, or will be, in this
18 judicial district.

19 3. Venue is proper in the United States District Court for the District of
20 Nevada under 28 U.S.C. § 1391(b)(2). Venue lies in the unofficial Southern division of
21 this Court.

22 PARTIES

23 4. Visa is a Delaware corporation with its principal place of business in Foster
24 City, California. Visa International either directly or indirectly through its parent, Visa,
25 Inc., and various affiliated and related entities (collectively, "Visa") conducts business
26 throughout the United States, including in the State of Nevada, and around the world.

27 5. <Visacredit.com> is an Internet domain name registered as a private
28 registration through Moniker Privacy Services of Pompano Beach, Florida.

6. <Visacreditcard.com> is an Internet domain name registered as a private registration through Domains by Proxy, Inc. of Scottsdale, Arizona.

7. <Visadebit.com> is an Internet domain name registered by Bridge Port Enterprises Limited of St. John's, Antigua and Barbuda.

8. <Visarewards.com> is an Internet domain name registered as a private registration through Moniker Privacy Services of Pompano Beach, Florida.

9. <Visamobile.com> is an Internet domain name registered by Dotstar, Inc., through Enom, Inc. of Seattle, Washington.

10. <Visapay.com> is an Internet domain name registered as a private registration through Moniker Privacy Services of Pompano Beach, Florida.

11. <Vissa.com> is an Internet domain name registered as a private registration through Dynamic Dolphin Privacy Protect of Broomfield, Colorado.

FACTUAL ALLEGATIONS

12. Visa operates the world's largest retail electronic payments network. Visa facilitates global commerce through the transfer of value and information among financial institutions, merchants, consumers, businesses and government entities.

13. VISA is one of the most recognized brands in the United States and throughout the world. Visa has been using the VISA mark continuously and exclusively since 1976. There are more than 1.5 Billion VISA-branded payment cards, including credit, debit and prepaid cards. More than 28 million merchants accept VISA-branded payment cards. Visa has processed more than 50 Billion transactions for a total volume of nearly \$4.0 Trillion U.S. dollars.

14. Visa owns more than seventy (70) United States trademark registrations for marks containing VISA for a variety of goods and services. Such registrations include, for example:

(a) VISA for broad based financial services, including, among others, credit card services, with a date of first use in 1976 (U.S. Registration No. 2,803,570);

(b) VISA for telecommunication services, namely electronic transmission

1 of information; telephone communication services and telephone calling card services
2 with a date of first use in 1983 (U.S. Registration No. 1,924,112); and

3 (c) VISA for magnetic coded cards; electronically coded cards; magnetic
4 coded card readers; electronically coded card readers; telecommunications equipment,
5 namely telephones and point of transaction terminals; and computer software for
6 transmitting, displaying and storing transaction, identification and financial information
7 for use in the financial services, banking and telecommunication industries with a date of
8 first use in 1977 (U.S. Registration No. 2,005,663).

9 15. The Defendant Domain Names <visacredit.com>, <visacreditcard.com>,
10 <visadebit.com>, <visarewards.com>, <visamobile.com> and <visapay.com> each contain
11 the VISA mark coupled with the generic terms associated with services provided by Visa,
12 namely, credit card, payment, and telecommunications-related services. Upon
13 information and belief, the registrants of these domain names intend to capture or divert
14 Internet traffic intended for the <visa.com> web site by Internet users who guess that
15 Visa's domain name will contain the VISA mark followed by a generic term, such as
16 "credit."

17 16. The Defendant Domain Name <vissa.com> contains the VISA mark with a
18 second letter "s." Upon information and belief, the registrant of this domain name
19 intends to capture or divert Internet traffic intended for the <visa.com> web site by
20 Internet users who mistakenly type <visa.com> with a second "s."

21 17. By registering Defendant Domain Names, the registrant of the Defendant
22 Domain Names were and are attempting to trade on the goodwill of Visa.

23 18. Upon information and belief, the registrants registered the Defendant
24 Domain Names with the bad faith intent to profit from Visa's distinctive and famous
25 VISA mark.

26 19. The registrants registered the Defendant Domain Names without the
27 consent of Visa.

28 20. The registrants of the Defendant Domain Names have no trademark or

1 other intellectual property rights in the Defendant Domain Names or the VISA mark.

2 21. The registrants of the Defendant Domain Names had no prior use of the
3 Defendant Domain Names or the VISA mark in connection with the bona fide offering of
4 any goods or services.

5 22. Upon information and belief, the registrants of the Defendant Domain
6 Names made no bona fide non-commercial or fair use of the Defendant Domain Names
7 in a site accessible under the domain names.

8 23. Upon information and belief, the registrants of the Defendant Domain
9 Names did not believe or have reasonable grounds to believe that the use of the
10 Defendant Domain Names was a fair use or otherwise lawful.

11 24. The registrants of the Defendant Domain Names (with the exception of
12 <visamobile.com> and <visadebit.com>) utilized private domain name registration
13 services and, upon information and belief, did so to conceal their identity. The registrant
14 of <visadebit.com> is located outside of the United States. The registrant of
15 <visamobile.com> has failed to provide complete and accurate registration information.

16 COUNT I

17 (Cybersquatting under the
18 Lanham Act, 15 U.S.C. § 1125(d))

19 25. Visa incorporates the allegations in the preceding paragraphs as if fully set
20 forth herein.

21 26. The registrants of the Defendant Domain Names have registered, trafficked
22 in, and/or used domain names that are identical or confusingly similar to the distinctive
23 and famous VISA mark.

24 27. Upon information and belief, the registrants of the Defendant Domain
25 Names have or have had a bad faith intent to profit from the VISA mark.

26 28. As a direct and proximate result of such conduct, Visa has suffered and will
27 continue to suffer, monetary loss and irreparable injury to its business, reputation and
28 goodwill.

PRAYER FOR RELIEF

WHEREFORE, Visa respectfully prays that the Court grant the following relief:

A. A preliminary and permanent injunction requiring the domain name registrars to transfer the registrations of the Defendant Domain Names to Visa; and

B. All other relief to which Visa is entitled.

DATED: August 7, 2009

Respectfully submitted,

LEWIS AND ROCA LLP

By: /s Michael J. McCue

Michael J. McCue

John L. Krieger

3993 Howard Hughes Parkway, Suite 600

Las Vegas, Nevada 89169

Attorneys for

VISA INTERNATIONAL

SERVICE ASSOCIATION